

PATENT

Atty. Dkt. No. 105146 (ATT/1999-0734)

**REMARKS**

In view of the following discussion, the Applicant submits that none of the claims now pending in the application is anticipated or made obvious under the provisions of 35 U.S.C. § 102 and § 103. Thus, the Applicant believes that all of these claims are now in allowable form.

**I. REJECTION OF CLAIMS 1-13, 16-23 AND 26 UNDER 35 U.S.C. § 102**

The Examiner has rejected claims 1-13, 16-23 and 26 in the Office Action under 35 U.S.C. § 102 as being anticipated Lipa et al. (US 6,061,722, Issued May 9, 2000, herein referred to as Lipa). Applicant respectfully traverses the rejection.

Lipa discloses a method that measures network performance between a client and server. (Emphasis added. See Lipa, Column 8, lines 25-28; Figure 1.) The latency times are compared to pre-calculated limits. (Emphasis added. See Lipa, Column 3, lines 28-44.) Based on the latency comparisons of the client and server, the user at the client can choose from a number of limited "zones." (Emphasis added. See Lipa, Column 9, lines 62-67; Column 10, lines 1-9.)

The Examiner's attention is directed to the fact that Lipa fails to teach or to suggest the novel concept of determining at least one amount of latency affecting communication between a first communication system and a second communication system and compensating for the latency between the first communication system and the second communication system, as positively claimed by the Applicant in Applicant's amended independent claims. It should be noted that this novel concept is also extended in the various embodiments of the present invention where there are at least three communication systems.

Applicant's invention provides a method and system for determining, through calculations, the latency between a first communication system and a second communication system. In one embodiment, the result of the calculations determining the latency, dictates the amount of time that needs to be added to compensate for the different latencies between the first communication system and the second communication system. With the Applicant's invention, a user at a first communication

PATENT

Atty. Dkt. No. 105146 (ATT/1999-0734)

system may directly compete with a user at a second communication system on any application that each user has on their respective application systems in a manner where the imbalance due to latency is now removed.

In contrast, Lipa completely fails to teach or suggest the ability to compensate for the latency. In fact the Examiner conceded in the Office Action that Lipa fails to provide this teaching.

Therefore, Applicant respectfully submits that amended Independent claims 1, 8, 12, 18, 19, 21 and 22 are patentable and not anticipated by Lipa. Furthermore, dependent claims 2-7, 9-11, 13, 16-17, 20, 23 and 26 depend from claims 1, 8, 12, 18, 19, 21 and 22, respectively, and recite additional limitations. As such, and for the exact same reason set forth above, the Applicant submits that claims 2-7, 9-11, 13, 16-17, 20, 23 and 26 are also patentable and not anticipated by Lipa.

## **II. REJECTION OF CLAIMS 14, 15, 24, 25 AND 27 UNDER 35 U.S.C. § 103**

The Examiner has rejected claims 14, 15, 24, 25 and 27 in the Office Action under 35 U.S.C. § 103 as being unpatentable over Lipa in view of Yelon et al. (US 6,041,317, issued July 2, 2002, herein referred to as Yelon). Applicant respectfully traverses the rejection.

The teachings of Lipa have been discussed above. However, Yelon fails to bridge the substantial gap left by Lipa. Specifically, Yelon also fails to disclose the novel concept determining at least one amount of latency affecting communication between a first communication system and a second communication system and compensating for the latency between the first communication system and the second communication system.

As stated above in Section I, Lipa simply does not teach or suggest the determining of at least one amount of latency affecting communication between a first communication system and a second communication system and compensating for the latency between the first communication system and the second communication system. Thus dependent claim 27 is not made obvious by Lipa as discussed above.

PATENT

Atty. Dkt. No. 105146 (ATT/1999-0734)

Furthermore, this deficiency is not bridged by the teaching of Yelon because Yelon only teaches eliminating the appearance of latency in transmission between a server and client. The actual latency in the communication signal is still there. Yelon achieves its function by having a predictive model that predicts what will occur without actually waiting for the signal to be received. In other words, the predictive model guesses at what the received signal will likely be and attempts to respond to this signal before the signal is actually received. Thus, the latency is still there.

Therefore, the combination of Lipa and Yelon do not teach or suggest Applicant's invention as recited in independent claims 12 and 22 and fail to bridge the substantial gap left by Lipa.

Dependent claims 14, 15, 24, 25 and 27 depend from claims 12 and 22, respectively, and recite additional limitations. As such, and for the exact same reason set forth above, the Applicant submits that claims 14, 15, 24, 25 and 27 are also not made obvious by the teachings of Lipa and Yelon.

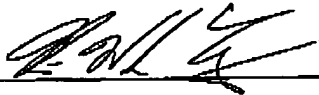
### Conclusion

Thus, the Applicant submits that all of these claims now fully satisfy the requirements of 35 U.S.C. §102 and §103. Consequently, the Applicant believes that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of a final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

9/23/04

  
Kin-Wah Tong, Attorney  
Reg. No. 39,400  
(732) 530-9404

PATENT

Atty. Dkt. No. 105146 (ATT/1999-0734)

Moser, Patterson & Sheridan, LLP  
595 Shrewsbury Avenue  
Shrewsbury, New Jersey 07702